

COUNTY OF YORK

MEMORANDUM

DATE: March 3, 2005 (BOS Mtg. 3/15/05)

TO: York County Board of Supervisors

FROM: James O. McReynolds, County Administrator

SUBJECT: Application for exemption from real and personal property taxation pursuant to Code of Virginia §58.1-3651 – Disabled American Veterans Thrift Stores of Hampton Roads

Disabled American Veterans (DAV) Thrift Stores of Hampton Roads is a Virginia nonprofit corporation based in York County. They own real property in York County located at 440 Merrimac Trail. The land and improvements are currently assessed for real estate taxation at \$483,100. Real estate taxes of \$3,949.34 will be assessed on this property for 2005. DAV Thrift Stores of Hampton Roads will also be assessed taxes of \$234.80 for the value of tangible personal property valued at \$5,870.

DAV Thrift Stores of Hampton Roads, following the procedure outlined in Code of Virginia §58.1-3651, is requesting exemption from real and personal property taxation. Such exemptions may be granted by the Board of Supervisors pursuant to Code of Virginia §58.1-3651 for the “real or personal property taxes, or both, owned by a nonprofit organization that uses such property for religious, charitable, patriotic, historical, benevolent, cultural, or public park and playground purposes.” Further, “no exemption shall be provided to any organization that has any rule, regulation, policy, or practice that unlawfully discriminates on the basis of religious conviction, race, color, sex, or national origin.”

Code of Virginia §58.1-3651 (copy attached) further sets out the criteria that must be considered by the Board when adopting any such ordinance. I have repeated each of those criteria below, numbered consistently as set out in the state statute, and below each criteria, in italics, have set out the responsive information provided by Angioma Alliance. That information is set out in a letter dated January 18, 2005 from Mr. John D. Edgerton, Executive Secretary. (copy attached).

1) Whether the organization is exempt from taxation pursuant to §501(c) of the Internal Revenue Code of 1954.

D.A.V. Thrift Stores of Hampton Roads (T/A) is the fundraising activity of the 13 Disabled America Veterans chapters located in the cities and counties of South Eastern, Virginia. The stores are owned and operated by the 13 chapters which are “exempt from taxation pursuant to §501(c)(4) of the Internal Revenue Code of 1954.” (see Attachment ‘A’)

2) Whether a current annual alcoholic beverage license for serving alcoholic beverages has been issued by the Virginia Alcoholic Beverage Control Board to such organization, for use on such property.

Is not applicable. Alcoholic beverages are not sold.

- 3) Whether any director, officer, or employee of the organization is paid compensation in excess of a reasonable allowance for salaries or other compensation for personal services which such director, officer, or employee actually renders.**

The only employee is the Executive Secretary, who is responsible to the Executive Committee and the Board of Directors for the day-to-day operations of the corporation for an annual salary of \$18,000. He also serves as the corporate Secretary as required by State law. Officers and Directors receive a Director's Fee of \$75.00 for quarterly board meetings. The Officers are elected by the Board and comprise the Executive Committee, responsible for the operation of the corporation. The "Board" is a collective body consisting of a duly elected or appointed member of each chapter and is responsible for the administrative policy consistent with State and Federal law and the regulations of the D.A.V. National Headquarters and are appropriately fiduciary liable. They approve all contracts and borrowing resolutions.

- 4) Whether any part of the net earnings of such organization inures to the benefit of any individual, and whether any significant portion of the service provided by such organization is generated by funds received from donations, contributions, or local, state or federal grants. As used in this subsection, donations shall include the providing of personal services or the contribution of in-kind or other material services.**

The sole earnings of the corporation is from the sale of salvageable discards, none of which inures to the benefit of any one individual.

- 5) Whether the organization provides services for the common good of the public.**

Distributions were made to the 13 chapters:

<i>1973-2002</i>	<i>\$4,570,500</i>
<i>2003</i>	<i>520,000</i>
<i>2004</i>	<i>650,000</i>

The 13 associating chapters are located in 10 cities and counties in the Hampton Roads area. The single primary beneficiary of these monies is the VA Medical center, Hampton. Outside of the hospital, each community has different needs, but the priorities are the same for all chapters; to assist disabled veterans and their families, veterans and their families and other families in need.

The Sr. Vice Commander of Yorktown Victory Chapter 13 will be present at the Public Hearing to describe specifically what is done for the citizens of York County.

- 6) Whether a substantial part of the activities of the organization involves carrying on propaganda, or otherwise attempting to influence legislation and whether the organization participates in, or intervenes in, any political campaign on behalf of any candidate for public office.**

We are strictly a fund-raising activity. Lobbying for veterans issues are up to individuals and the National legislative staff.

- 7) The revenue impact to the locality and its taxpayers of exempting the property.**

Regardless of your decision in this matter, we will still be in business and deliver more than \$21,000 in sales and BPOL taxes. Our tax liability for 2004 was:

<i>Real Estate</i>	<i>\$3,949</i>
<i>Business License</i>	<i>1,344</i>
<i>Personal Property</i>	<i>216</i>
<i>Total</i>	<i><u>\$5,509</u></i>

8) Any other criteria, facts and circumstances that the governing body deems pertinent to the adoption of such resolution.

A copy of the latest Form 990 is provided as requested (Annex 'B')

In addition, Code of Virginia §58.1-3651 requires that the ordinance state the specific use on which the exemption is based, and continuance of the exemption shall be contingent on the continued use of the property in accordance with the purpose for which the organization is classified or designated. The classifications available are religious, charitable, patriotic, historical, benevolent, cultural, or public park and playground. The classifications that DAV Thrift Stores of Hampton Roads seems to most closely fit are "charitable" and "benevolent."

In the past, requests for exemption from real and personal property taxation required the Board to pass a resolution making a recommendation to the General Assembly who would in turn consider the request, and, if granted, would codify the exemption. Changes to the Code of Virginia have now passed the granting authority to the local governing body. The Code of Virginia includes the names of the organizations, together with the dates and section numbers of the adopted legislation for which the General Assembly granted real and personal property tax exemption prior to the change to the Code of Virginia. The list includes over 1,000 organizations. I have not included copies of those pages from the state code, but they may be found in any copy of the Virginia State Code as §58.1-3650.1 through 58.1-3650.1001.

Proposed Ordinance No. 05-6 has been prepared for the Board's consideration. If adopted, this ordinance will grant exemption from real and personal property taxation to DAV Thrift Stores of Hampton Roads on the basis of use for charitable and benevolent purpose.

Please let me know if you have any questions.

White/3737

Attachments

- Code of Virginia §58.1-3651
- Letter from John D. Edgerton, Executive Secretary
- Proposed Ordinance No. 05-6